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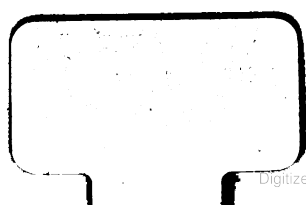
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UNITED STATES
District Court . MASS.

Rules and Forms in
Bankruptcy

1842

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U.S. District Court. Massachusetts

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RULES AND FORMS
IN
BANKRUPTCY,

In the District Court of the United States,

FOR THE

District of Massachusetts.

January 28, 1842.

Clapp & Son's Press 5 Water Street.

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RULES AND FORMS

IN

BANKRUPTCY

IN

THE DISTRICT OF MASSACHUSETTS.

WHEREAS, by the Act of Congress, passed at the last session thereof to establish a uniform system of Bankruptcy throughout the United States, it is, among other things, provided that "It shall be the duty of the District Court, in each District, from time to time, to prescribe suitable rules and regulations and forms of proceedings in all matters of Bankruptcy (subject to the Revision of the Circuit Court, as in the same Act is provided,) and further, that "In all such rules, regulations and forms, it shall be the duty of the said Court to make them as simple and brief as practicable, to the end to avoid all unnecessary expenses and to facilitate the use thereof by the public at large." Now, therefore, in obedience to these directions of the Act, the following Rules, Regulations and Forms, in matters of Bankruptcy, are hereby ordained and established, to be in force in all proceedings in Bankruptcy in the District Court of the District of Massachusetts, until the further order of the Court.

Act of 1841,
Ch. 56.

I. The District Court, being by the Act of Congress declared to be always open in all matters of Bankruptcy, any person, desirous of availing himself as a voluntary Bankrupt of the benefit of the Act, and also any creditor desirous of proceeding against his Debtor to have him declared a Bankrupt, in pursuance of the Act, may at any time file his petition in the Clerk's office, for that purpose, in the form hereinafter prescribed (*mutatis mutandis*, where there are more than one Petitioner,) verified by oath or by solemn affirmation if the party is conscientiously scrupulous of taking an oath; and,

Act of 1841,
Ch. 56.

Id. §1.

Id. §7.

thereupon, a notice of such petition shall be published with the time and place appointed for the hearing thereof, in such newspaper or newspapers, printed in the District, as shall be designated by the Court, twenty days at least before the day appointed for the hearing, so that all persons interested may appear at such time and place and show cause, if any they have, why the prayer of the said petition should not be granted. And where the proceeding is against a party in invitum as an involuntary Bankrupt, personal notice also shall be given to him of the petition and order thereon, by delivering him a copy thereof, if he is found within the District, or by leaving a copy thereof at his known usual place of residence therein, at least twenty days before the day appointed for the hearing.

II. The District Judge, will from time to time, designate stated times and places for all hearings in Bankruptcy; and no hearings thereof will be had at any other times or places unless upon the special order of the Court, for good cause shewn—and until the further order of the Court, all such hearings shall be had on the ——— day of ———, every month, at the usual place where the District Court is held, in ———, at ——— o'clock, A. M.

III. All Petitions in Bankruptcy shall be entered by the Clerk, in a Docket and Register Book, kept exclusively for matters in Bankruptcy, in the order of time and with the dates affixed in which they are filed in the office; and they shall be heard in the like order of time, unless otherwise specially directed by the Court for good cause shown. All orders of the Court in Bankruptcy and all other proceedings had from time to time therein shall be in like manner entered in the same Books, and suitable Indexes thereof be kept thereof, and of the pages where found.

IV. Standing Commissioners in Bankruptcy, for the purposes and duties required by the Act of Congress, will from time to time be appointed by the Court in all counties of the State, where the business may require it, and in all other cases, temporary Commissioners will be appointed *pro hac vice*. The Standing Commissioners appointed by the Circuit Court of the District to take depositions and bail and affida-

vits in civil causes, and also the Standing Masters in Chancery of the said Court, are hereby appointed and declared to be Standing Commissioners of the District Court for the purpose of the said Act.

V. All proofs of debts and other claims by any creditor, ^{Act of 1841, §5.} resident or living within the District, may be made before any Commissioner of the Court resident in the county where the Bankrupt lives, or where the creditor lives, or in case of his death, where his personal representative lives; or if there be more than one joint creditor, where either creditor lives. If the debt or other claim be owing by joint debtors, all of whom are bankrupts, the proof may be made before any Commissioner resident in the county where either of the bankrupts live, or where the creditor lives, or where any creditor lives, if there be more than one joint creditor. Where the creditor or creditors, or his or their personal representative live without the District, the proof of any debt or other claim may be made before any Commissioner appointed by the Court, or before any disinterested Judge of the State where such creditor or creditors, or personal representative live.

VI. All such proofs of debts and other claims shall be by ^{Act of 1841, §5. §7.} oath or by solemn affirmation, if the party is conscientiously scrupulous of taking the oath, in substance according to the forms hereinafter prescribed; *mutatis mutandis*; except debts and other claims due to the United States, which shall be proved and verified in the manner now provided by law, as ^{Act of 1797, Ch. 74. §2.} to proof of such debts in courts of justice; and debts and other claims due to corporations, which shall be proved in the mode prescribed by the Act of Congress.

VII. All proofs of debts and other claims so made shall be lodged and filed in the Clerk's office as soon as conveniently may be after the same are made by the Commissioner or Judge taking the same, at the expense of the party proving the same; and if transmitted to the Clerk by mail, the postage thereon shall be paid; otherwise the Clerk shall not be bound to take up or file the same. The Clerk shall make a memorandum on all such proofs, of the time when the same were filed in the office.

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Act of 1841,
§4. §9.

VIII. As soon as conveniently may be after the decree declaring a party a bankrupt under the Act of Congress shall have passed, or, if appealed from, as soon as the appeal is finally disposed of in the manner prescribed by the Act, the Court will proceed to the appointment of an Assignee of the Bankrupt's estate ; who, however, shall not be entitled to enter upon the duties of his office until he has given bonds in the name of the United States, with two or more sureties, in such sum as the Court shall direct, to be approved by the Court, for the due and faithful discharge of all his duties, and his compliance with the orders and directions of the Court. All such bonds given by Assignees shall be deposited in the Clerk's office, subject to the order of the Court. Every appointment of an Assignee by the Court shall be open for reconsideration upon the petition of the Bankrupt, or not less than one third in number and value of the creditors who have proved their debts, upon due cause being shown therefor to the Court, and on notice thereof given to the Assignee in the manner prescribed by the Court ; and the Assignee will be confirmed or removed according as the Court upon the hearing of the parties shall decide to be required by the justice of the case, and the interest of the parties interested in the estate.

Act of 1841,
§5. §7.

IX. The Assignee, as well as any one or more of the creditors of the Bankrupt, shall have full right by petition to the Court, filed in the Clerk's office, to contest the validity and amount of any debt or other claim made by any creditor or creditors, at any time before a dividend is declared of the estate ; but not afterwards, unless upon good cause shown, and the special order of the Court ; which petition shall be in substance *mutatis mutandis* according to the form hereinafter prescribed. And thereupon the Court will take order for the hearing and due trial thereof, according to the Act of Congress, on notice being first given to the creditor or creditors whose debt or other claims is so contested of the time and place of hearing ; and the Court upon such hearing will allow or disallow such debt or claim, or reduce the amount thereof, as justice and equity may require. And whenever the Assignee, or the creditor or creditors, the validity of

whose debt or other claim is so contested, shall by petition require a trial by jury to be had to ascertain the validity and amount of such debt or other claim, the Court will direct an issue therefor, and other proceedings as required by the Act of Congress. All petitions for such a trial by jury shall be in substance *mutatis mutandis* according to the form hereinafter prescribed.

X. Whenever the Assignee or any one or more of the ^{Act of 1841,} creditors who shall have proved their debts or other claims, shall, by petition, apply to the Court for an examination of the Bankrupt, on oath or solemn affirmation, touching any and all matters relating to such Bankruptcy, and his acts and doings, and his property and rights of property ; or the Court, of its own mere motion, shall deem such an examination necessary and proper for the purposes of justice, the Court will order and direct the Bankrupt to appear, at a time and place assigned for that purpose, before the Court, or before any Commissioner appointed by the Court therefor, then and there to submit himself to such examination, orally or upon written interrogatories, touching all or any such matters ; notice thereof to be given to the said Bankrupt in such manner as the Court shall appoint, at least ten days before the time appointed therefor. And if the Bankrupt shall fail to appear and submit himself to such examination, at the time and place appointed therefor, or shall refuse fully to answer all such oral or written interrogatories, and no sufficient cause shall be shewn to the Court to justify or excuse him in the premises, and the Court shall not enlarge the time, or appoint another time therefor, the Bankrupt shall be deemed guilty of a wilful refusal and disobedience, and non-compliance with the order and direction of the Court ; and shall, in the farther proceedings in Bankruptcy, be dealt with accordingly.

XI. Any creditor or creditors who have proved his or their debts or other claims, as well as the Assignee, shall be entitled to appear at such examination, and under the direction of the Court or the Commissioner, (as the case may be,) may put any question, either orally or by written interrogatories, to the Bankrupt, touching any matter or matters in Bankruptcy as aforesaid, which question the said Bankrupt

shall be bound to answer fully and clearly and without evasion or equivocation ; and the examination may be adjourned from time to time, until completed, as the Court or Commissioner shall deem fit and proper for the purposes of justice.

Act of 1841,
§4. 97.

XII. Every application by any Bankrupt for a discharge and certificate of discharge from his debts, proveable under the Act, shall be on petition filed in the Clerk's office, in substance in the form hereinafter prescribed—notice whereof and of the order of the Court thereon for the hearing thereof, at least seventy days before the day appointed therefor, shall be published in some newspaper printed in the District, and designated by the Court, and also where the residence of any creditor, who has proved his debt is known, notice thereof shall be given by a service thereof on him personally, or by a printed letter signed by the Clerk and addressed to him at his known usual place of residence, in the form hereinafter prescribed, and in the mode hereinafter prescribed, unless the Court shall in its discretion otherwise direct, having a regard to the circumstances of any particular case, so that all creditors who have proved their debts, and all other persons in interest may appear at the time and place assigned for the hearing, and contest the right of the Bankrupt to such discharge and certificate. And unless the Court shall otherwise direct as aforesaid, where such notice shall be by letter, it shall be in the form hereinafter prescribed ; and if the creditor lives in the place where the District Court is holden, the service, if personal, shall be by the delivery of a printed copy thereof to the creditor personally, or by leaving the same at his known usual place of residence, at least ten days before the hearing. But if the creditor resides in any other place, then the service shall be by a printed copy of the letter signed by the Clerk, and sealed, and sent by the mail, addressed to such creditor at his known usual place of residence, at least thirty days before the hearing. In each case the service shall be made by the Marshal of the District or his deputy, (unless otherwise specially directed by the Court,) who shall make due return of his doings therein forthwith and as soon as may be practicable. Provided, that no discharge or certificate thereof or hearing thereon, will be

§4.

had by the Court until after ninety days from the decree in Bankruptcy.

XIII. Whenever any creditors less than a majority in ^{Act of 1841,} number and value, who have proved their debts, or any other person in interest shall appear at the hearing of the petition of the Bankrupt for his discharge and a certificate thereof, and object thereto, they shall file their objections in writing ; and the Court will thereupon proceed to examine and decide upon the same either forthwith, or at such other time, as justice and equity may require, having regard to the nature of the objections and the proofs required in support thereof. But if a majority in number and value of the creditors, who have proved their debts shall appear at such hearing and file their written dissent thereto, they shall state their objections in writing ; then, and also in the case that upon such hearing a discharge shall not be decreed to him by the Court, the Bankrupt may demand a trial by jury, and the proper issue will be directed by the Court, and the trial and other proceedings had thereon in the manner prescribed by the Act of Congress. But if the Bankrupt shall not demand any trial by jury, the Court will then proceed to examine and decide upon the objections in the manner herein before stated ; and will decree or refuse a discharge and certificate thereof to the Bankrupt according to the provisions of the Act of Congress.

XIV. Preparatory to every Dividend to be made of the ^{Act of 1841,} estate and assets of the Bankrupt, the Court will refer it to a ^{§10.} Commissioner of the Court, or Master in Chancery, to take an account of all such estate and assets ; of all debts and other claims proved by creditors under the bankruptcy ; of all outstanding claims and debts as far as they can be ascertained, due to or by the Bankrupt and cognizable under the bankruptcy ; of all rights of priority by the United States, or otherwise ; and of all other matters and things which are proper for the consideration of the Court in ordering and directing a dividend. And the Commissioner or Master shall make his Report in the premises, as early and promptly as possible. And when his Report shall be made to the Court and filed in the Clerk's office, due notice thereof shall be.

given thereof and also of the time and place appointed by the Court for the hearing and decision thereof by publication in one or more newspapers printed in the District and designated by the Court, twenty days at least before the hearing, so that all creditors who have proved their debts, the Bankrupt, the Assignee, and all other persons in interest, may appear at the time and place so assigned and shew cause, why the Report should not be accepted, all objections and exceptions thereto being filed in writing ; and, thereupon such proceedings will be had by the Court as to justice and equity may appertain.

Act of 1841.
§5.

XV. In all cases where mutual debts or mutual credits are alleged to exist between the Bankrupt and any debtor or creditor of the Bankrupt ; the same may and shall be adjusted by way of set-off. And if any dispute shall arise concerning the same, the Court will upon the petition of the Bankrupt, or of the Assignee, or of the debtor, or of the creditor, or of any other party in interest, order and direct the same to be referred to a Commissioner of the Court, or Master in Chancery, to examine and adjust the same with all the usual powers of a Master in Chancery, to examine the parties on oath or solemn affirmation in the premises, and also to take all other evidence, in like manner of witnesses and otherwise, applicable thereto ; and to make Report thereof to the Court. And thereupon the Court will assign a suitable time and place for the hearing of the said Report and the confirmation ; due notice thereof being given thereof in such manner as the Court shall direct, unless all the parties in interest who may contest the same before the Commissioner or Master shall waive all objections thereto in writing. And such other proceedings shall be had thereon by the Court as to justice and equity shall appertain.

Act of 1841,
§9 .

XVI. No sales, transfers, or other conveyances of the Bankrupt's property, or rights of property, shall be made by any Assignee, except at such times and places, and upon such terms as shall be appointed and ordered by the Court upon a petition filed for that purpose. Such petition may be filed by the Assignee, or by any creditors not less than one third in number and value, who have proved their debts or claims,

in the Clerk's office ; and thereupon the Court will assign a suitable time and place for the hearing thereof, and a suitable notice thereof by publication in some newspaper printed in the District, designated by the Court, at least ten days before the hearing, so that all persons in interest may appear and show cause, if any they have, why the petition should not be granted.

XVII. That whenever it may or shall be deemed for the benefit of the estate of the bankrupt to redeem and discharge any mortgage, or other pledge or deposit or lien upon any property, real or personal, whether payable in present or at a future day, and to tender a due performance of the conditions thereof, or to compound any debts or other claims or securities due or belonging to the estate of the Bankrupt, the Assignee, or the Bankrupt, or any creditors, who have proved their debts, not less than one third in number and value, may file his petition therefor in the Clerk's office ; and thereupon the Court will appoint a suitable time and place for the hearing thereof ; and notice thereof shall be given in some public newspaper printed in the District and designated by the Court at least ten days before the hearing, so that all creditors, and other persons in interest, may appear and shew cause, if any they have, why the order or discharge should not be passed by the Court upon the petition.

XVIII. And whereas the Act of Congress provides that all assets received by any Assignee in money shall within sixty days afterwards be paid in to the Court, subject to its order respecting its future safe keeping and disposition ; the Court, in obedience to this injunction, do order, that every Assignee shall strictly comply with the same ; and his wilful or negligent omission to do so, shall be deemed a good cause in the discretion of the Court for his removal from office. And every Assignee is hereby required to keep full, exact and regular books of account of all receipts, payments and expenditures of monies by him ; and also of all property, and assets, which have come to his hands, and of all property and rights of property of the Bankrupt, which have come to his knowledge, or of which he has received credible information. And every Assignee shall at the end of every sixty

Act of 1841,
§10.

Act of 1841,
§9.

Act of 1841,
§9. §3.

days after the receipt of any monies belonging to the estate, render in writing and file in the Clerk's office under oath an account of all the monies so received by him, and of the expenditures and payments by him thereout, specifying the particular sums received, from what persons or sources received, the times when received, and in cases of payments and expenditures thereof, the particular sums, persons and purposes to and for which they were paid, and the dates thereof, and shall pay the balance into the Court. Every wilful or negligent omission to comply with these directions, will be deemed a good cause of removal of the Assignee in the discretion of the Court.

XIX. All monies paid into the Court shall be entered by the Clerk of the Court to the credit of the particular estate in bankruptcy in a book to be kept for that purpose, and the times and amounts thereof specified, in the order in which the same shall be received. All monies so received shall be forthwith deposited by the clerk in such bank or banks in the District as shall be designated by the Court in the name and to the credit of the Court; and no monies so deposited shall be drawn from such bank or banks unless upon a check or draft signed by the Clerk of the Court, stating the date and the sum and the account for which it is drawn, and certified by the Judge as allowed by him. And an entry of the substance of such check, and the date thereof, and of the sum drawn for, and of the account for which it is drawn, shall be forthwith entered in a book kept for that purpose by the clerk, and all checks and drafts shall be entered in the order of time in which they are drawn.

Act of 1841,
§10.

XX. Dividends will be declared and distribution be made of the assets of the Bankrupt in pursuance of the Act of Congress, as often as once in six months, from the time of the decree declaring the Bankruptcy. And notices of such dividend and distribution will be given in some newspaper or newspapers printed in the District, and designated by the Court, ten days at least before the order therefor is passed.

XXI. All notices upon petitions and other applications respecting matters in Bankruptcy, by or against the Bankrupt, or by or against the Assignee, or by or against any creditor

or creditors, or other party in interest, in cases where it is not otherwise provided by the Act of Congress, or by a ^{Act of 1841,} special order of the Court, shall be by a printed notice thereof delivered to the proper party personally, or sent by mail addressed to him at his known usual place of residence, or by publication thereof in one or more newspapers printed in the District and designated by the Court, ten days at least before such petition or application is acted upon, so that all parties in interest may appear at the time and place assigned for the hearing, and show cause if any they have, why the petition or other application should not be granted.

XXII. All such notices served personally or sent by mail shall be served by the Marshal or his deputy, (unless otherwise specially ordered by the Court,) and due return thereof made of such service accordingly, by the officer serving the same.

XXIII. All papers in Bankruptcy filed in the Clerk's office shall be endorsed by the Clerk, with the date of the receipt thereof, and a brief memorandum of the nature and object of the paper, and folded as near as may be in a uniform manner.

XXIV. All evidence to be used in Bankruptcy shall, except in cases of trials by Jury, be in writing, by affidavit or deposition, taken before some Commissioner of the Court or before some disinterested Judge of a State Court, who is by the laws of the United States now competent to take depositions to be used *de bene esse* in causes pending in Courts of the United States. And in trials by Jury the evidence may be by witnesses orally, or by depositions taken as aforesaid, at the election of the party using the same. But in all cases where the evidence is by deposition, reasonable notice of the time and place of taking such deposition shall be given to the adverse party, so that he may be prepared to attend the taking thereof, and put cross-interrogatories to the deponent.

XXV. The costs of all hearings and trials and other proceedings in Bankruptcy, shall be borne by the estate of the Bankrupt, or by the creditor or creditors or other party in interest, by or against whom petition or other application is brought, or other proceedings had, according as the Court shall finally award and direct in each particular case, taking

into consideration all the circumstances and the equities thereof. Saving, however, that no costs shall be awarded against any person or his estate, who shall be proceeded against by his creditor or creditors as a Bankrupt and shall not be declared to be a Bankrupt, under the provisions of the Act ; but such person may be decreed by the Court, in its discretion, to be entitled to costs against the creditor or creditors who shall so proceed against him.

Act of 1841,
§6.

XXVI. And whereas it is provided by the Act of Congress that in all rules, regulations, and forms in Bankruptcy, it shall be the duty of the Courts to make them as simple and brief as practicable, to the end to avoid all unnecessary expenses, and to facilitate the use thereof by the public at large. It is farther ordered by the Court, that all the forms herein prescribed be printed under the direction of the Clerk at the expense of the Court, in a good and clear type, on sized paper, of a strong quality and a uniform size, so that the same may be folded in a uniform manner, for the due preservation and safety thereof in the office. And it shall be the duty of the Clerk to deliver to any person or persons whatsoever, any number of copies which may be required of any such forms, upon his payment of the sum which may, as near as practicable, be in cents the cost thereof, adding for his, the Clerk's, fee for his services therein the additional sum of one cent for every copy. And the Court will receive proposals from any bookseller or booksellers for the printing of any or all of such forms, he or they undertaking to comply with the regulations of the Court touching the printing and sale thereof.

XXVII. And whereas it is farther provided by the Act of Congress, that the Court shall, from time to time, prescribe a tariff or table of fees and charges to be taxed by the officers of the Court or other persons under the said Act, or any other Act on the subject of Bankruptcy, which fees shall be as low as practicable, with reference to the nature and character of such services—which injunction the Court is most anxious to obey and fulfil ; and inasmuch as the nature and character of all the services cannot at present be fully understood and ascertained so as to make an exact tariff

or table thereof, the Court do order that, for the present, and until the future order thereof, the following tariff or table of fees be established for the services therein specified, viz :

To the Clerk of the Court—

For the entry of every petition and other application to the Court, and the order thereon, fifty cents.

For filing, numbering, dating, and endorsing every paper in Bankruptcy, ten cents for each paper.

For a printed copy of any petition or application and the order thereon, and filling the blanks, and affixing his name and the seal of the Court thereto, and certifying the same to be a true copy, twentyfive cents.

For a printed copy of any other order or proceeding of the Court, and filling the blanks, and affixing his name and the seal of the Court thereto, and certifying the same to be a true copy, twentyfive cents.

For every printed certificate of discharge of any Bankrupt, and filling the blanks and affixing his name and the seal of the Court thereto, twentyfive cents.

For every printed copy of the same, signed, sealed and certified as aforesaid, twentyfive cents.

For the entry of every order or decree declaring a dividend, fifty cents ; for certifying a printed copy thereof, filling the blanks, and affixing his name and the seal of the Court thereto, twentyfive cents.

For the entry of every other order or decree, not otherwise enumerated, twentyfive cents—and the like sum for a printed copy thereof, certified and sealed as aforesaid.

For signing any printed form of a letter, and filling the blanks therein, and addressing the same to any creditor or creditors or other party in interest, in pursuance of law, or the order of the Court, ten cents.

For all monies paid into Court and deposited in Bankruptcy, one quarter of one per cent., not exceeding in the whole, in any one case in Bankruptcy, the sum of one hundred dollars.

To the Commissioners in Bankruptcy—

For taking the proof of any debt or other claim of any ^{Act of 1841,} \$19.

creditor, filling up the blanks in the printed form, and signing and certifying the same, not exceeding one dollar, and in addition thereto his travel expenses, and for administering an oath to the Petitioner and a certificate thereof, twenty cents.

To the Marshal or his Deputy—

For personal service of any process of the Court, not otherwise specified, twentyfive cents, and five cents per mile for his necessary travel in serving and returning the same.

For delivering of any printed letter to a creditor or other party in interest, personally, under any order of the Court or of law, and making return thereof, twentyfive cents.

For sending such letter by the mail and making return thereof, ten cents.

XXVIII. The following forms, in substance, and no others, shall be the forms to be used in all the cases therein specified in Bankruptcy within this District, *mutatis mutandis*, as the circumstances of each particular case may require, until the further order of the Court. And the Court will from time to time prescribe other forms for other cases not herein provided for, according to the exigencies thereof. And in the meantime it shall be the duty of all parties in cases not herein provided for, to follow, as nearly as reasonably may be, the forms herein prescribed, so far as the same can be applied and are applicable to the circumstances thereof.

FORMS.

PETITION BY DEBTOR FOR BENEFIT OF THE ACT OF CONGRESS.

To the Honorable the Judge of the District Court for the District of —.

Respectfully represents — —, of —, in the County of —, and State of —, that he is owing debts in his private right and capacity to sundry creditors, a list of whose names and places of residence, and the amount due to each, according to the best of his knowledge and belief, is contained in the schedule hereto annexed, marked A., and that the annexed schedule marked B. contains an accurate inventory of his property, rights, and credits, of every name, kind, and description, and of the location and situation of each and every parcel and portion thereof; that he is unable to meet his debts and engagements, and he therefore applies to this honorable Court for the benefit of the Act of Congress entitled "An Act to establish a uniform system of Bankruptcy throughout the United States," and prays that after due proceedings had, he may be declared by a decree of the Court to be a Bankrupt, within the purview of the said Act, and upon his compliance with all the requisitions of the said Act, and all the orders and directions of the Court in the premises, that he may be decreed to have a certificate of discharge from all his debts proveable under the said Act, and otherwise entitled to all the benefits thereof.

Signed by the Petitioner.

On this — day of —, A. D. 184 .

Sworn to by the Petitioner, (or if the case be so, solemnly affirmed—the Petitioner being conscientiously scrupulous of taking an oath) before me,

_____,
Commissioner of the said Court, &c. &c.

Order of the Court thereon.

District Court of ——. On this — day of —, A. D. 184 . Upon reading the foregoing petition, it is ordered by the Court that notice thereof be published in — newspaper printed in the District, at least twenty days before the — day of —, when a hearing will be had on the said petition, at —, within the said District, at — o'clock in the forenoon ; so that persons interested may appear at the said time and place, and show cause, if any they have, why the prayer of the said petitioner should not be granted.

Clerk of the Court.

Mem. Whenever there are joint debtors or partners petitioning for the benefit of the Act, the petition and order are to be varied accordingly, *mutatis mutandis*.

PETITION BY A CREDITOR TO HAVE THE DEBTOR DECLARED
A BANKRUPT.

*To the Honorable the Judge of the District Court for the
District of —.*

Respectfully represents — —, of —, in the County of —, and District of —, that — —, of —, in the County of —, and District of —, being a merchant and using the trade of merchandize, (or being a retailer of merchandize, or a banker, or a factor, or broker, or underwriter, or marine insurer, as the case may be,) is justly and truly owing debts exceeding two thousand dollars, and also owing unto the said Petitioner the sum of five hundred dollars and upwards, and that he did lately, to wit :— on the — day of — last past, become bankrupt, within the Act of Congress in this case made and provided, to wit, by committing one or more of the Acts hereinafter mentioned, of which due proof is ready to be given by the Petitioner, at such time and place as the Court shall direct. To wit : (Here insert such of the acts on which the Petitioner means to rely, in the form following :)

1. By departing from the State (or District or Territory,) of which he is an inhabitant, with intent to defraud his creditors.

2. By concealing himself, to avoid being arrested.
3. By willingly or fraudulently procuring himself to be arrested.
4. By willingly or fraudulently procuring his goods and chattels, lands and tenements, to be attached and sequestered, and taken in execution.
5. By removing his goods, chattels and effects, and by concealing them to prevent them from being levied upon, and taken in execution or by other process.
6. By making a fraudulent conveyance, assignments, sale, and other transfer of his lands, tenements, goods and chattels, and evidences of debt.

Wherefore the Petitioner prays that, due proceedings being had in the premises, he the said ———, may be declared a Bankrupt within the purview of the Act of Congress in such case made and provided, and other proceedings had thereon as are conformable to the said Act, and to justice and equity may appertain.

Signed by the Petitioner.

ORDER ON THE SAID PETITION.

District Court of the District of ———, ss. On this ——— ^{Act of 1841} _{27.} day of ———, A. D. 184 . On reading the Petition aforesaid. It is ordered by the Court that notice thereof be given to the said ——— personally by delivering him a copy thereof, if he is found within the District, or by leaving a copy thereof at his known usual place of residence within the District, at least twenty days before the ——— day of ——— when a hearing will be had upon the said petition at ——— within the said District at ——— o'clock in the forenoon ; and also that notice thereof be published in ——— a newspaper printed in the District at least twenty days before the said day so appointed for the hearing ; so that all persons interested may appear at the said time and place, and shew cause, if any they have, why the prayer of the said Petitioner should not be granted.

Clerk of the Court.

**PETITION—BY PERSON DECLARED A BANKRUPT—FOR A
TRIAL BY JURY.**

*To the Honorable the Judge of the District Court for the
District of —.*

Respectfully represents — —, of —, in the
County of —, and District of —, that on the — day of
— last past, he was declared by decree of the Court to
be a Bankrupt within the purview of the Act of Congress in
that case made and provided; that he denies that he has
committed any act of Bankruptcy whatever within the pur-
view of the said Act; and he therefore prays that the Court
would direct a trial by Jury to be had in the premises, to as-
certain the fact of such Bankruptcy, in such manner and at
such time, and under such directions as the Court may pre-
scribe and give. (Signed.)

ORDER THEREON.

District of —. On this — day of —, A. D. 184 .
Upon reading the foregoing petition it is ordered by the
Court that notice thereof be published in — newspaper,
printed in the said District, — days at least before the —
day of —, when a hearing will be had on the said petition
at — for all creditors and other persons in interest, to ap-
pear and show cause, if any they have, why the prayer of the
said petition shall not be granted, and a trial accordingly had,
at which time and place the said creditors and other persons
in interest may appear and establish the fact of any act or acts
of Bankruptcy committed by the said Petitioner, within the
purview of the Act of Congress in this case made and provi-
ded.

Clerk of the Court.

**PETITION OF A CREDITOR FOR A TRIAL BY JURY TO ASCER-
TAIN THE AMOUNT OF HIS DEBT.**

*To the Honorable the Judge of the District Court for the
District of —.*

Respectfully represents — —, of —, &c. That
in the case of the Bankruptcy of — —, of —, in the
County of —, the said — — is justly and truly in-

debted to him in the sum of — and upwards—the particulars whereof are stated in the Schedule marked A, hereto annexed, which debt or claim is proveable under the said Bankruptcy; and the validity and amount of the same is contested, by the Assignee of the said Bankrupt for and in behalf of the creditors, wherefore he prays that a trial by jury to ascertain the validity and amount of the said debt or claim may be ordered and directed by the Court upon a suitable issue or issues, at such time and place and in such manner as the Court shall direct. (Signed.)

Dated on —.

ORDER THEREON.

District of —, On — day of —, &c. Upon reading the foregoing petition, it is ordered by the Court that notice be given to —, the Assignee in Bankruptcy in this case, at least — days before the — day of —, to appear at —, within the said District, at — o'clock in the forenoon, when a hearing will be had on the said petition, to shew cause, if any he has, why the prayer of the said Petitioner should not be granted—such notice to be served by the Marshal of the District or his Deputy on the said Assignee personally, or by leaving a copy thereof at his usual and known place of residence.

Clerk of the Court.

PETITION BY THE ASSIGNEE TO EXPUNGE THE PROOF OF ANY DEBT OR CLAIM.

To the Honorable the Judge of the District Court, for the District of —.

Respectfully represents —, of —, &c., Assignee of —, a Bankrupt, on behalf of the creditors of the said Bankrupt that —, of —, &c. has proved a debt or claim under the decree of Bankruptcy against the said —, to the amount of the sum of —, the validity and amount of which said debt and claim, and of any part thereof is wholly denied by him the said Assignee—Wherefore he prays that a trial by the Court or by a jury, at the

election of the said Bankrupt or of the said Assignee, to ascertain the validity and amount of said debt or claim, may be ordered and directed by the Court ; and if a trial by jury is elected by either party, that it may be had upon a suitable issue or issues at such time and place and in such manner as the Court shall direct. (Signed.)

Dated on —.

ORDER THEREON.

District of —, on — day of —, &c. Upon read ing the foregoing petition, it is ordered by the Court that notice be given to — —, the Assignee in Bankruptcy in this case, at least — days before the — day of —, when a hearing will be had upon the petition aforesaid, to appear at —, within the said District, at — o'clock in the forenoon, to shew cause, if any he has, why the prayer of the said petitioner should not be granted—such notice to be Act of 1841, 97. served by the Marshal of the District, or his Deputy, on the said Assignee personally, or by leaving a copy thereof at his usual and known place of residence.

Clerk of the Court.

PETITION BY BANKRUPT FOR HIS DISCHARGE.

To the Honorable the Judge of the District Court, for the District of —.

Respectfully represents — —, of —, in the county of —, and District of —. That on the — day of — last past, he was duly declared a Bankrupt under the Act of Congress in that case made and provided ; that he hath duly surrendered all his property and rights of property, and fully complied with and obeyed all the orders and directions of the Court touching his Bankruptcy ; and is ready to submit himself to any other and further examinations, orders, and directions which the Court may require. He, therefore, prays that after due notice and proceedings to be had in the premises—he may be decreed by the Court to have a full discharge from all his debts proveable under the said Bank-

ruptcy, and a certificate thereof granted according to the Act of Congress. (Signed,)

Dated this — day of —.

ORDER THEREON.

District of —. On, &c. On reading the foregoing petition, it is ordered by the Court that notice thereof be published in — newspaper printed in the District seventy days at least before the — day of —, when a hearing will be had on the said petition at —, within the said District at — o'clock, in the forenoon, and all creditors who have proved their debts, and other persons in interest, may appear at the said time and place, and show cause, if any they have, why the prayer of the said petitioner should not be granted. And it is further ordered by the Court that all such creditors whose places of residence are known, shall be entitled to a service and notice of the same petition and order either personally or by a letter addressed to them at their known usual place of residence, attested by the Clerk of the Court, and served or left at his usual place of abode, by the Marshal or his Deputy, or sent by the mail, whereof due proof is to be given.

Clerk of the Court.

NOTICE THEREOF BY LETTER TO CREDITOR.

District Court of the District of —.

Take notice that a Petition has been filed in the said Court by —, of —, duly declared a Bankrupt under the Act of Congress, for a discharge, and certificate thereof from all his debts and other claims proveable under the Act—and that — day of — next, at —, at — o'clock, is assigned for the hearing of the same, when and where you may attend and shew cause, if any you have, why the prayer of the said petition should not be granted.

Clerk of the Court.

To —.

Mem. Other forms of notices by letter in other cases are to be in substance like this form, *mutatis mutandis*.

PETITION BY A MAJORITY OF CREDITORS AGAINST DIS-
CHARGE OF BANKRUPT.

*To the Honorable the District Judge of the District
of ———*

Act of 1841,
§4.

Respectfully shew the undersigned, creditors of ———, who has been declared a Bankrupt under the Act of Congress, and has applied for a discharge and certificate thereof from the Court, that they the said creditors, being a majority in numbers and value of the creditors who have proved their debts under the said Bankruptcy, do hereby file and declare their dissent to the discharge of the said Bankrupt according to his petition; and they offer the following reasons and objections thereto, and are ready to prove the same, as the Court shall direct, to wit:

First. [Because the said ——— has been guilty of fraud and a wilful concealment of his property and rights of property, contrary to the provisions of said Act.]

Secondly. Because the said ——— has preferred some of his creditors, contrary to the provisions of said Act.

Thirdly. Because, &c. (as the case may be.)

Wherefore they pray, that upon due proof of the premises the said ——— may be denied his discharge and certificate as prayed for by his petition.

Signed.

Mem. When the petition is by the assignee, or by any creditors less than the majority, the form is to be varied accordingly.

PETITION OF ASSIGNEE TO SELL ESTATE OF BANKRUPT.

*To the Honorable the Judge of the District Court of the
District of ———.*

Respectfully shews, ——— of ———, Assignee of the estate of ———, of ———, declared by this Court as a bankrupt, that the said ——— at the time of his bankruptcy was seized and possessed of the estate and property in the schedule hereto annexed, marked A. specially set forth; that it will be for the benefit of the said estate and of all parties having interest

therein, that the same should be sold, transferred and assigned. Wherefore the petitioner prays the Court to pass an order for that purpose, according to the provisions of the Act of Congress.

Mem. The like form in substance, *mutatis mutandis*, is to be followed in cases where the Assignee wishes for authority to compound debts, or to redeem estates mortgaged or deposited, or on which there is a lien, or where the application is by the Bankrupt, or any creditor, or any other party in interest.

ORDER THEREON.

District Court of the District of —,

On this — day of —, upon reading the petition aforesaid, it is ordered by the Court, that due notice thereof be published in — a newspaper printed in the District, ten days at least before the time assigned for the hearing, that a hearing of the said petitioner will be had on —, at — o'clock, at — A. M. when and where all creditors, the Bankrupt, and other persons in interest may appear and shew cause (if any they have) why the prayer of the said petitioner should not be granted.

Clerk of the Court.

FORM OF PROOF OF DEBTS AND OTHER CLAIMS.

District of — County of —.

On this — day of —, A. D. —.

— of — in the district of — being duly sworn (or solemnly affirmed, as the case may be,) upon his oath (or solemn affirmation, as the case may be,) saith, that —, of —, the person who has been declared a Bankrupt in the District of —, was, at and before the date of the decree declaring him a bankrupt, and still is justly and truly indebted unto this deponent (and — his partners in trade doing business under the firm of — as the case may be) in the sum of — according to the account in the Schedule hereunto annexed, marked A. which is a just and true account, for which said sum, or any part thereof, he, this deponent

hath not, (nor hath his said partner, nor any other person, to his (or their) use, to his knowledge or belief, received any security or satisfaction whatsoever,) except (if the case be so) the security stated in the Schedule, thereof hereunto annexed, marked B.

Signed by the Creditor.

Sworn to (or solemnly affirmed, the said — being conscientiously scrupulous of taking an oath, as the case may be) the day and year above noted. Before

{ Commissioner of the
District Court of the
District of —.

Memo. Whenever a Schedule is annexed, it is to be verified by the signature of the creditor and also of the Commissioner.

Memo. If the Deponent is a surviving partner, the form shall in substance be “indebted to this Deponent as surviving partner of —, deceased in the sum of —.” If the Deponent is an Executor or Administrator the form shall in substance be, “indebted to this Deponent as Executor, (or as Administrator as the case may be) of the goods and estate of — late of — deceased.” The Executor shall swear or solemnly affirm as to the justice, and truth of the debt according to his best knowledge and belief.

FORM OF PROOF OF DEBTS AND OTHER CLAIMS.

For Goods Sold and Delivered.

As before write the words “In the sum of — for goods sold and delivered by this deponent, (and his said partner as the case may be,) to the said Bankrupt, for which said sum this deponent hath not received, &c., as before.

For Work, Labor and Services.

(As before) “In the sum of — for work and labor done, and services performed by this deponent for the said Bankrupt, for which said sum, &c., (as before.)

For Money Lent, &c.

"In the sum of — for money lent and advanced, (or money laid out, paid and expended as the case may be) by this deponent to and for the use of the said Bankrupt, (or for money had and received by the said Bankrupt, to and for the use of the deponent as the case may be,) for which said sum, &c.

By Payee of a Promissory Note.

"In the sum of — upon a certain promissory note dated the — day of —, at —, and signed by the said Bankrupt, for the sum of —, payable to the deponent or order on demand (on — days after date, &c. as the case may be,) for value received, for which said sum he hath not received any security or satisfaction whatsoever, or any part thereof except the said promissory note."

By Indorsee of a Promissory Note.

In the sum of —, upon a certain promissory note dated —, at —, for the sum of —, payable to —, or order, which said note by regular endorsement and delivery thereof is now and at the time of the said decree in Bankruptcy, was the lawful property of the deponent, as the true owner thereof, he having given lawful value thereof, for which said sum or any part thereof, this deponent, &c., except the said promissory note.

Mem. Where the party is the holder of several notes, the form may in substance be, "upon certain notes, the dates, sums, persons to whom payable, and indorsements, (if any) are truly specified and set forth in the Schedule thereof hereto annexed and marked A.

Schedule.

Date —, signed by —, sum —, payable to —, Indorser, at what date drawn —, presented for —

By Holder of a Bill of Exchange.

Upon a certain bill of exchange dated —, on —, at —, drawn by —, on —, (and accepted by —, as

the case may be,) payable ——— after date, to ——— or order, for the sum of ———, and indorsed by the said payee to the deponent—for which sum, &c.

(Or which said bill, by regular indorsement, is now, and was at the time of the said decree in Bankruptcy the lawful property of the said deponent, he having given lawful value therefor, for which said sum, &c.

Mem. If the Bankrupt be the drawer or indorser of the bill, add "which bill was upon due presentment thereof at maturity dishonored by the said ———, (the drawee or acceptor, as the case may be) whereof due notice was given to the said Bankrupt," for which said sum, &c.

By Assured upon a Policy of Insurance. Unadjusted loss. ———, In the sum of ——— and upwards, by virtue of a certain policy of insurance, a true copy whereof is hereto annexed in the paper marked A., which policy was subscribed by the said ———, for the said sum, of ———. That afterwards, in the course of the adventure and voyage aforesaid, an average (or a total, as the case may be,) loss occurred of the property so insured, whereby the said underwriters have become liable to pay the loss so accruing, amounting, according to the best knowledge and belief of the deponent, in the sum of ——— and upwards, the same not as yet having been adjusted.

Mem. Upon all claims for unadjusted losses, the Court will, upon the application of the parties, direct the same to be ascertained by a jury, or by a Master in Chancery, or Assessor, as the parties may require.

By Underwriters for Premiums.

——— In the sum of ——— for premiums due and unpaid to the said deponent on divers policies of insurance [by him underwritten for the said ———, before he became a Bankrupt, for which sum, &c.

Mem. Where the claim for premiums is by an incorporated Insurance Company, the form should be varied in substance as follows :

———, of ———, President (Treasurer, Cashier, Secretary,

or other officer, as the case may be,) of the corporation created and known by the name of the —, being duly appointed and authorized for this purpose, doth on oath say that —, of —, who has been duly declared a bankrupt, was at and before the date of the decree declaring him a bankrupt, justly and truly indebted unto the said corporation in the sum of —, for premiums, &c., according to his best knowledge and belief, for which said sum, &c.

Mem. In all other cases of debts and other claims by corporations, the like form may be pursued *mutatis mutandis*.

Proof of a Surety who has not paid the Debt.

— Saith that —, of —, has been duly declared a Bankrupt; that before the decree declaring the said — a Bankrupt, the deponent became a surety for the said Bankrupt, by signing a joint and several promissory note, dated —, at —, whereby the deponent and the said Bankrupt promised jointly and severally to pay to one — or order, the sum of — in — after date, for value received; which sum yet remains due and unpaid to the said —, and for the payment whereof the deponent yet remains and is liable for the payment: Wherefore the deponent prays that he may be permitted to come in, and his said debt or claim be admitted against the said Bankrupt, so that when the said debt or claim shall have become absolute, or he shall have paid the same, he may be enabled to have the same allowed him, and also to have the full benefit of the proof therefor, if any, which shall be made by the said — or other lawful holder and owner of the said note; and he further saith that he hath received no security or satisfaction, &c.

Mem. The like form may be pursued in case of a bond or other security, by a surety *mutatis mutandis*.

